

REMARKS

In response to the Office Action mailed December 16, 2004, Applicants respectfully request reconsideration. To further the prosecution of this application, each of the issues raised in the Office Action is addressed herein.

Claims 1-113 are pending in this application, of which claims 1, 15, 28, 36, 41, and 80 are independent claims. By this amendment, Applicants have amended the abstract and the specification. Applicants also have amended claims 1-43 and have added new claims 44-113. No new matter is added. The application as now presented is believed to be in allowable condition.

A. Interference

The Applicants no longer seek to start interference proceedings in this application. Generally, the claims have been amended herein (in many cases the claims have been broadened) so as to no longer duplicate the language of the claims of U.S. Patent No. 6,683,423.

B. Title

On page 2, the Office Action alleges that the title of the invention is not descriptive. Applicants respectfully disagree, and do not adopt the title suggested in the Office Action. Applicants believe that the original title of the application appropriately describes, in a general manner, the subject matter disclosed in the specification and presently claimed.

C. Abstract

Applicants have amended the abstract pursuant to the suggestions given in the Office Action.

D. Drawings

On page 3 of the Office Action, the drawings were objected to as failing to comply with 37 CFR 1.84(p)(4). Applicants have amended the specification to address some of the inconsistencies in reference characters and/or terminology noted in the Office Action in connection with the drawings; accordingly, no amendments to the drawings are required. Applicants respectfully believe, however, that some of the objections to the drawings indicated in the Office Action are unwarranted and should therefore be withdrawn, as some of the noted features (e.g., Planckian locus, line, and black body curve; conductive sleeve and conductive aluminum sleeve; enclosure plate and disk-shaped enclosure plate) would be readily understood by one of ordinary skill in the art as unambiguously indicated in the specification and the drawings.

E. Specification

Applicants have corrected a typographical error in the specification as noted on page 5 of the Office Action. The specification also has been amended to correct noted inconsistencies in reference characters and/or feature terminology, as discussed above in section D.

Additionally, Applicants have amended the priority claim references listed in the "Cross References to Related Applications" section of the specification. During a review of the application file history while preparing this Amendment, and pursuant to discussions with representatives of the current assignee of record (Color Kinetics, Inc.), it was noted that the priority claim was incomplete. Accordingly, the specification has been amended to include additional references in the priority claim. Applicants have enclosed herewith a Petition Under 37 CFR 1.78(a)(3) for Acceptance of an Unintentionally Delayed Claim for Priority Under 35 U.S.C. §120, together with this Amendment, a Statement that the amended benefit claim is unintentionally delayed, and the required surcharge.

F. Rejections Under 35 U.S.C. §112

In item 7 on page 6 of the Office Action, claims 15-27 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for reciting the term “substantial energy.” Applicants have amended claim 15 to now recite the term “wavelengths” instead of “substantial energy.” In view of the foregoing, the rejections under 35 U.S.C. §112 should be withdrawn.

G. Rejections under 35 U.S.C. §103

Claims 1-5, 8-26, 28-35, and 41-43 were rejected under 35 U.S.C. §103 as being unpatentable over Amerson et al. (U.S. Patent No. 6,379,022).

Applicants respectfully point out that the filing date of the Amerson reference is April 25, 2000. However, prior to the amendments herein, the earliest effective filing date of the present application was November 18, 1999, corresponding to U.S. provisional application Serial No. 60/166,533, entitled “Designing Lights with LED Spectrum” (to which the present application claims priority). This date is prior to the filing date of the Amerson reference; hence, the Amerson reference is not prior art to the present application. Applicants also note that, in this amendment, as discussed above in section E, the priority claim has been amended such that the earliest effective filing date to which the present application now is entitled is December 17, 1997 - well before the filing date of the Amerson reference. In view of the foregoing, the rejections over Amerson are improper and should be withdrawn.

Since the rejections over Amerson are believed to be improper on procedural grounds, Applicants do not present comments at this time regarding the substantive merits of the rejections. However, Applicants reserve the right to discuss the substantive merits of the rejections at a later time if deemed necessary.

H. Claim Amendments / New Claims

As indicated above in section A, Applicants have amended claims 1-43 herein

so as to no longer duplicate the language of the claims of U.S. Patent No. 6,683,423. None of the claims has been amended to overcome any rejections over prior art, and in many cases the claims have been broadened from their original language.

New claims 44-113 have been added to further define Applicants' contribution to the art. No new matter is added. Claims 44-79 depend from independent claim 1 and are believed to be allowable based at least upon their dependency. New independent method claim 80 closely tracks the language of independent apparatus claim 1 as now pending, and is believed to be allowable for at least the same reasons. New claims 81-113 depend from claim 80, and are believed to be allowable based at least upon their dependency.

PATENTS
Serial No. 10/705,643
Confirmation No. 4766
Attorney Docket No. CKB-061.02
(f/k/a C1104-7061.20)

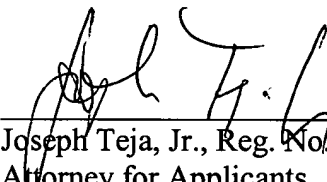
I. Conclusion

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' representative at the telephone number indicated below to discuss any outstanding issues relating to the allowability of the application.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 06-1448, reference CKB-061.02.

Respectfully submitted,

Date: June 16, 2005
Customer No: 25181
Patent Group
Foley Hoag, LLP
155 Seaport Blvd.
Boston, MA 02210-2600



Joseph Teja, Jr., Reg. No. 45,157
Attorney for Applicants
Tel. No. (617) 832-1183
Fax. No. (617) 832-7000